IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 7664 of 2003
Date of decision 12 .2.2007

Gram Panchayat Lakhowal Khurd .. petitioner

Versus

Joint Development Commissioner, Punjab and others .. Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

PRESENT: Mr.Onkar Singh, Advocate for the petitioner

M.M.Kumar, J.

This petition filed under Article 226 of the Constitution prays for quashing order dated 24.8.2001 (Annexure P.1) accepting the appeal filed by respondent nos. 3 to 7 (Jaswant Kaur, Dharam Kaur, Kuldip Kaur, Balbir Singh and Babbly). It is appropriate to mention that the Collector vide order dated 16.3.1998 had ordered the eviction of the afore-mentioned respondents by accepting the petition filed under Section 7 of the Punjab Village Common Lands (Regulation) Act,1961 (for brevity 'the Act') filed by the petitioner Gram Panchayat. The afore-mentioned order has been reversed and set aside by the Commissioner in appeal. The Commissioner in his order has recorded a categorical finding that the father of respondent nos. 3 to 7 namely Jagir Singh had constructed a house on the disputed land and thereafter his sons had also constructed their respective houses. The possession of the land in dispute by the fore-fathers of respondent nos. 3 to 7 has been proved before 1950. For that reason it has been categorically held that the land in dispute is not covered by the definition of Shamlat Deh as per the provisions of Section 2(g) of the Act. According to this Section if the land has been partitioned and brought under cultivation by the

individual land holders before 26.1.1950 then the same is not to be treated as Shamlat Deh. Once there is categorical finding that the land in dispute has been in possession of the fore-fathers of respondent nos. 3 to 7 before 1950 and father of respondent nos. 3 to 7 and his sons have made their respective houses then it would obviously be not covered by the expression shamlat deh.

We repeatedly asked the learned counsel as to how the petitioner Gram Panchayat can get over that difficulty and no satisfactory explanation meeting the finding recorded in the impugned order has been furnished. Therefore, we do not find any legal infirmity in the view taken by the Commissioner in the impugned order dated 24.8.2001. The writ petition is wholly without merit and the same is accordingly dismissed.

(M.M.Kumar)

Judge

(Rajesh Bindal)

Judge

12.2.2007
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